2 m 2 6

TIAB

THE UNITED STATES PATENT AND TRADEMARK OFFICE EFORE THE TRADEMARK TRIAL AND APPEAL BOARD

07-12-2002

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

DESTARK TRIAL AND APPEAL BOARD

In the Matter Of: Trademark Application No. 76/111835 for THIS WEEK IN HISTORY AND DESIGN in Classes 9, 16, 41; Published July 3, 2001

AO.COM, LLC,

Opposer,

Opposition No. 123,817

A&E TELEVISION NETWORKS

Applicant.

Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202

APPLICANT'S MOTION FOR LEAVE TO AMEND COUNTERCLAIM

The Applicant, A&E Television Networks hereby moves for leave to amend its Counterclaim for Cancellation of Opposer's Registration No. 2,454,675.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the date shown below.

MARIE-ANNE MASTROVITO

Date: July 9, 2002

Signature

mas

Through discovery the Applicant has obtained evidence of Applicant's failure to prosecute

third parties using marks which are identical to that of Opposer on closely related services. The

Applicant therefore believes that it is appropriate to add a claim of abandonment to its

counterclaim. A copy of the Applicant's Amended Counterclaim incorporating the proposed

change is attached.

The Applicant submits that the amendment of the pleading is necessary to allow the

consideration of all claims in a single proceeding.

Moreover, the Applicant submits that neither party will be prejudiced by this amendment

because the discovery period may be reopened as to this issue.

Wherefore, the Applicant requests that the Board grant the Applicant leave to amend the

counterclaim and enter the amended counterclaim which is attached hereto into the record.

Respectfully submitted,

MARIE ANNE MASTROVITO

ABELMAN, FRAYNE & SCHWAB

150 EAST 42ND STREET

NEW YORK, NEW YORK 10017

(212) 949-9022

Attorneys for Applicant, A&E Television Networks

Date: July 9, 2002

2

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing <u>APPLICANT'S MOTION FOR</u>

<u>LEAVE TO AMEND COUNTERCLAIM</u> was served by first class mail, postage prepaid, this

9th day of July, 2002 upon Opposer:

Curtis L. Griggs
Managing Director
AO.COM, LLC
P.O. Box 2224
Sedona, Arizona 86339

MARIE-ANNE MASTROVITO